

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1. CONTRACT ID CODE		PAGE 1 OF 8 PAGES	
2. AMENDMENT/MODIFICATION NO. A0001		3. EFFECTIVE DATE 09/20/2007		4. REQUISITION/PURCHASE REQ. NO. 4E-7006		5. PROJECT NO. (If applicable)
6. ISSUED BY USDOT/RITA/Volpe Center 55 Broadway, Kendall Square, RTV-6D1 Cambridge, MA 02142-1001			7. ADMINISTERED BY (If other than Item 6)			CODE
8. NAME AND ADDRESS OF CONTRACTOR (No. Street, county, State and ZIP: Code)				()	9A. AMENDMENT OF SOLICITATION NO. DTRT57-07-R-20016	
				X	9B. DATED (SEE ITEM 11) 08/29/2007	
					10A. MODIFICATION OF CONTRACT/ORDER NO.	
					10B. DATED (SEE ITEM 13)	
CODE		FACILITY CODE				

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

X The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, **X** is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning one (1) copy of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATA SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and data specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

N/A

**13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS,
IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.**

()	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
	D. OTHER Specify type of modification and authority)

E. IMPORTANT: Contractor [] is not, [] is required to sign this document and return ____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

This amendment is issued for information purposes to provide responses to questions received from potential Offerors. The due date and time for submission of proposals is unchanged. Please acknowledge receipt of this amendment with your proposal submission. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATA SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER.

The Government's responding to these questions does not reopen the period for questions.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)		BY (Signature of Contracting Officer)	

1) We did not see a line item for disposal, is that a line item the Volpe Center would recommend?

Response: Waste Management/Disposal Activities is not a separate line item. Refer to the Statement of Work for a description of waste management activities that will be required.

2) May we use our environmental ID/IQ contracts as contracts under the Past Performance section? Or should each of the 5 past experience contracts represent a specific TO or project?

Response: Either would be acceptable as long as the past performance indicates relevant experience as it relates to the Statement of Work.

3) On Page 11 Dust Control states that the perimeter air monitoring will be conducted by others under separate contract. Do we have to hire independent IH company under separate contract?

Response: Perimeter air monitoring will be conducted by others under separate contract to the Government. The Remediation Contractor is not responsible for hiring an independent industrial hygienist company to conduct air monitoring.

4) On page 56 it states that Government is responsible for conducting required sampling. However the contractor must conduct personal air sampling during the removal and we do not find line item in the cost sheet for IH's to conduct OSHA compliance air sampling for ACM and LBP and/or in the documents specifies the requirements for personal monitoring? Is this part of Other Professional/Administrative Labor - Schedule 2, please advice?

Response: Personal air sampling and clearance sampling will be conducted by others under separate contract to the Government. The Remediation Contractor is not responsible for hiring an independent industrial hygienist company to conduct personal air sampling or clearance sampling.

5) Is the Government responsible for clearances sampling?

Response: Personal air sampling and clearance sampling will be conducted by others under separate contract to the Government.

6) Section L – Instructions for Technical Proposal (page 51)

2. C. Technical Understanding and Management Approach.....The response to the hypothetical removal scenario shall be subject to an overage page limit of 15 pages (5 pages for narrative response and 10 pages for the schedule).

If 10 pages are not need for the schedule is it acceptable to utilize the remaining pages for the narrative?

Response: No. Offerors are required to follow the instructions as specified in the RFP.

The following questions were based on Section L – Criteria for Evaluation (page 55)

3. Technical Understanding and Management Approach (page 55)....The offeror must include a matrix detailing how the offeror has allocated the labor required.....

7) What is the intent of the matrix?

Response: The intent of the matrix is to evaluate how the contractor intends to allocate the labor required and the team composition proposed to complete the work required by the RFP.

8) What is the basis of the hour's component of the matrix? (i.e. should it be based on a hypothetical Task Order, Annual allocation, or something else?)

Response: The hour's component is not specified. The contractor shall clearly indicate the basis of the hours component of the matrix.

9) Is Schedule 3 as listed on page 49, minus the cost data, to represent the matrix DOT is asking to be submitted?

Response: The matrix shall include the labor categories in Schedule 3 as listed on page 49. Section L details the matrix requirements.

10) Section L - Instructions for Technical Proposal (page 51)

2. C The narrative on technical understanding and management approach shall be limited to 5 pages.

* Due to the amount of information required by the RFP more than 5 pages are needed to adequately describe technical understanding of the requirements of the Work Statement as well as Management Approach to the requirements. Will DOT consider increasing the page limitation for the referenced section to 10 pages for the narrative?

Response: The narrative on technical understanding and management approach is increased to 8 pages.

Based on this change, L.5.A.2.c, Page Limits for Technical Understanding and Management Approach is revised to read as follows:

Technical Understanding and Management Approach: The total overall page limit is 23. The narrative on technical understanding and management approach shall be limited to 8 pages. The response to the hypothetical removal scenario shall be subject to an overall page limit of 15 pages (5 pages for the narrative response and 10 pages for the schedule).

11) What is the typical size for each task?

Tasks vary in size depending on whether the Task Order is for waste management or residential abatement. Typically a task order for residential cleanup support covers thirty residences for exterior and interior remediation, for a two month period.

12) What are we bonding with the \$2,500?

Response: The amount of the bonds is based on the minimum guarantee that will be funded at time of contract award.

13) Under schedule 2 of the summary of proposed prices and profit (page 48 of solicitation) there is a rate schedule for construction labor. Based on the RFP there are 2 wage rates applicable to this project (Heavy

Highway and Residential). Are we to provide two schedules based on this one for residential and one for heavy highway? Or does the government have a percentage breakdown per applicable rate which equals 100% of the job that we are to use? The disparity between these 2 rates for laborers is large (\$17.16/hour including fringe) Please clarify?

Response: The wage determinations attached to the RFP are the relevant determinations for the type of work under this contract. The percentages between heavy and residential will be largely dependent upon the cleanup activities that will be specified in future task orders. Based on input from the Department of Labor, interior remediation activities will be based on the residential construction wage determination, exterior remediation activities and waste management activities will be based the heavy construction wage determination. For those labor categories not identified on the wage determination, the successful offerors will be required to submit a conformance request after contract award.

14) Is there a site visit or pre-proposal conference scheduled?

There is no pre-proposal or site visit for this procurement.

15) May proposals be hand delivered to the address listed on SF33, Box 7?

Yes, provided they are delivered no later than the date and time specified in Block 7.

16) Are all known potential subcontractors required to submit detailed pricing and past performance information, or just major subcontractors (defined as subcontractors who have “over 20 percent of the hours in the cost proposal”)?

Response: Pricing Proposals will be required from the prime offeror and all known proposed subcontractors, regardless of the percentage of utilization. Major subcontractors (over twenty percent of the hours in the price proposal) must submit past performance evaluations, in addition to the prime offeror.

17) Are subcontractor proposals to be submitted “separately” from the prime’s proposal, perhaps as appendices to the prime contractor’s proposal?

Subcontractor price proposals can be submitted separately or can be included with the prime offeror’s proposal.

18) Volume I, Section II is titled “Information Other Than Cost and Pricing Data”. However, am I reading correctly that Schedules 2-4 (which are cost and pricing data) and the supporting data for those schedules are to be included in this section?

The title “Information Other Than Cost and Pricing Data” means that the data submitted with the price proposal is not certified. Schedules 2 through 4 must be submitted with this section.

19) In *L.4.D.5, RFP Other Direct Costs (ODC)*, the solicitation states: The Offeror should include an additional \$1,700,000 for those items and burden it in accordance with established accounting practice. Is this \$1,700,000 annually or is this projected through the 5 year life of the contract?

The price proposal instructions are based on one year of contract performance. This is stated this way for

evaluation purposes.

20) Who is responsible for hauling the ACM to the old mine site or to the landfill?

Response: Refer to waste management activities in the Statement of Work. Waste management is the responsibility of the remediation contractor.

21) Who is responsible for removing the dirt, trees, bushes, etc..?

Response: Removal of dirt, trees, bushes, etc., will be specified at the task order level.

22) If dirt is removed, who is responsible for the clean fill dirt?

Response: Requirements for clean fill and topsoil will be specified at the Task Order level. Currently, the Government provided clean fill and topsoil to the remediation contractors. There is no guarantee that this will continue in the future.

23) Clause H.9 – Performance & Payment Bonds (page 24)

DOT requires a letter from the contractor's surety 'stating that their bonding capability is a minimum of \$5,000,000.

Does DOT want proof that the contractor can have a single bond issued for \$5mm, that the contractor has the aggregate bonding capacity of \$5mm, or can the surety it self issue a bond for \$5mm?

Response: In accordance with FAR 28.201, acceptable forms of security include 1) corporate or individual sureties; or (2) any of the types of security authorized in lieu of sureties by FAR 28.204. Proof must be submitted with the offeror's proposal that the offeror's surety (corporate or individual) has an aggregate bonding capacity of \$5,000,000.

Several offerors have requested guidance concerning business affiliations (i.e., joint ventures, protégé-mentor, etc.) SBA has been contacted and has provided their regulations concerning business affiliations. Offerors should contact SBA directly concerning additional questions on business affiliations.

§ 121.103 How does SBA determine affiliation?

- (a) *General Principles of Affiliation.* (1) Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists.
- (2) SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists.
- (3) Control may be affirmative or negative. Negative control includes, but is not limited to, instances where a minority shareholder has the ability, under the concern's charter, by-laws, or shareholder's agreement, to prevent a quorum or otherwise block action by the board of directors or shareholders.
- (4) Affiliation may be found where an individual, concern, or entity exercises control indirectly through a third party.
- (5) In determining whether affiliation exists, SBA will consider the totality of the circumstances, and may find affiliation even though no single factor is sufficient to constitute affiliation.
- (6) In determining the concern's size, SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit.

(b) *Exceptions to affiliation coverage.* (1) Business concerns owned in whole or substantial part by investment companies licensed, or development companies qualifying, under the Small Business Investment Act of 1958, as amended, are not considered affiliates of such investment companies or development companies.

(2)(i) Business concerns owned and controlled by Indian Tribes, Alaska Native Corporations (ANCs) organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), Native Hawaiian Organizations (NHOs), Community Development Corporations (CDCs) authorized by 42 U.S.C. 9805, or wholly-owned entities of Indian Tribes, ANCs, NHOs, or CDCs are not considered affiliates of such entities.

(ii) Business concerns owned and controlled by Indian Tribes, ANCs, NHOs, CDCs, or wholly-owned

entities of Indian Tribes, ANCs, NHOs, or CDCs are not considered to be affiliated with other concerns owned by these entities because of their common ownership or common management. In addition, affiliation will not be found based upon the performance of common administrative services, such as bookkeeping and payroll, so long as adequate payment is provided for those services. Affiliation may be found for other reasons.

(3) Business concerns which are part of an SBA approved pool of concerns for a joint program of research and development as authorized by the Small Business Act are not affiliates of one another because of the pool.

(4) Business concerns which lease employees from concerns primarily engaged in leasing employees to other businesses or which enter into a co-employer arrangement with a Professional Employer Organization (PEO) are not affiliated with the leasing company or PEO solely on the basis of a leasing agreement.

(5) For financial, management or technical assistance under the Small Business Investment Act of 1958, as amended, (an applicant is not affiliated with the investors listed in paragraphs (b)(5) (i) through (vi) of this section.

(i) Venture capital operating companies, as defined in the U.S. Department of Labor regulations found at 29 CFR 2510.3-101(d);

(ii) Employee benefit or pension plans established and maintained by the Federal government or any state, or their political subdivisions, or any agency or instrumentality thereof, for the benefit of employees;

(iii) Employee benefit or pension plans within the meaning of the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. 1001, *et seq.*);

(iv) Charitable trusts, foundations, endowments, or similar organizations exempt from Federal income taxation under section 501(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. 501(c));

(v) Investment companies registered under the Investment Company Act of 1940, as amended (1940 Act) (15 U.S.C. 80a-1, *et seq.*); and

(vi) Investment companies, as defined under the 1940 Act, which are not registered under the 1940 Act because they are beneficially owned by less than 100 persons, if the company's sales literature or organizational documents indicate that its principal purpose is investment in securities rather than the operation of commercial enterprises.

(6) A protege firm is not an affiliate of a mentor firm solely because the protege firm receives assistance from the mentor firm under Federal Mentor-Protege programs. Affiliation may be found for other reasons.

(7) The member shareholders of a small agricultural cooperative, as defined in the Agricultural Marketing Act (12 U.S.C. 1141j), are not considered affiliated with the cooperative by virtue of their membership in the cooperative.

(c) *Affiliation based on stock ownership.* (1) A person (including any individual, concern or other entity) that owns, or has the power to control, 50 percent or more of a concern's voting stock, or a block of voting stock which is large compared to other outstanding blocks of voting stock, controls or has the power to control the concern.

(2) If two or more persons (including any individual, concern or other entity) each owns, controls, or has

the power to control less than 50 percent of a concern's voting stock, and such minority holdings are equal or approximately equal in size, and the aggregate of these minority holdings is large as compared with any other stock holding, SBA presumes that each such person controls or has the power to control the concern whose size is at issue. This presumption may be rebutted by a showing that such control or power to control does not in fact exist.

(3) If a concern's voting stock is widely held and no single block of stock is large as compared with all other stock holdings, the concern's Board of Directors and CEO or President will be deemed to have the power to control the concern in the absence of evidence to the contrary.

(d) *Affiliation arising under stock options, convertible securities, and agreements to merge.* (1) In determining size, SBA considers stock options, convertible securities, and agreements to merge (including

agreements in principle) to have a present effect on the power to control a concern. SBA treats such options, convertible securities, and agreements as though the rights granted have been exercised.

(2) Agreements to open or continue negotiations towards the possibility of a merger or a sale of stock at some later date are not considered "agreements in principle" and are thus not given present effect.

(3) Options, convertible securities, and agreements that are subject to conditions precedent which are incapable of fulfillment, speculative, conjectural, or unenforceable under state or Federal law, or where the probability of the transaction (or exercise of the rights) occurring is shown to be extremely remote, are not given present effect.

(4) An individual, concern or other entity that controls one or more other concerns cannot use options, convertible securities, or agreements to appear to terminate such control before actually doing so. SBA will not give present effect to individuals', concerns' or other entities' ability to divest all or part of their ownership interest in order to avoid a finding of affiliation.

(e) *Affiliation based on common management.* Affiliation arises where one or more officers, directors, managing members, or partners who control the board of directors and/or management of one concern also control the board of directors or management of one or more other concerns.

(f) *Affiliation based on identity of interest.* Affiliation may arise among two or more persons with an identity of interest. Individuals or firms that have identical or substantially identical business or economic interests (such as family members, individuals or firms with common investments, or firms that are economically dependent through contractual or other relationships) may be treated as one party with such interests aggregated. Where SBA determines that such interests should be aggregated, an individual or firm may rebut that determination with evidence showing that the interests deemed to be one are in fact separate.

(g) *Affiliation based on the newly organized concern rule.* Affiliation may arise where former officers, directors, principal stockholders, managing members, or key employees of one concern organize a new concern in the same or related industry or field of operation, and serve as the new concern's officers, directors, principal stockholders, managing members, or key employees, and the one concern is furnishing or will furnish the new concern with contracts, financial or technical assistance, indemnification on bid or performance bonds, and/or other facilities, whether for a fee or otherwise. A concern may rebut such an affiliation determination by demonstrating a clear line of fracture between the two concerns. A "key employee" is an employee who, because of his/her position in the concern, has a critical influence in or substantive control over the operations or management of the concern.

(h) *Affiliation based on joint ventures.* A joint venture is an association of individuals and/or concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out no more than three specific or limited-purpose business ventures for joint profit over a two year period, for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. This means that the joint venture entity cannot submit more than three offers over a two year period, starting from the date of the submission of the first offer. A joint venture may or may not be in the form of a separate legal entity. The joint venture is viewed as a business entity in determining power to control its management. SBA may

also determine that the relationship between a prime contractor and its subcontractor is a joint venture, and that affiliation between the two exists, pursuant to paragraph (h)(4) of this section.

(1) Parties to a joint venture are affiliates if any one of them seeks SBA financial assistance for use in connection with the joint venture.

(2) Except as provided in paragraph (h)(3) of this section, concerns submitting offers on a particular procurement or property sale as joint venturers are affiliated with each other with regard to the performance of that contract.

(3) *Exception to affiliation for certain joint ventures.* (i) A joint venture of two or more business concerns may submit an offer as a small business for a Federal procurement without regard to affiliation under paragraph (h) of this section so long as each concern is small under the size standard corresponding to the

NAICS code assigned to the contract, provided:

(A) The procurement qualifies as a “bundled” requirement, at any dollar value, within the meaning of §125.2(d)(1)(i) of this chapter; or

(B) The procurement is other than a “bundled” requirement within the meaning of §125.2(d)(1)(i) of this chapter, and:

(1) For a procurement having a receipts based size standard, the dollar value of the procurement, including options, exceeds half the size standard corresponding to the NAICS code assigned to the contract; or

(2) For a procurement having an employee-based size standard, the dollar value of the procurement, including options, exceeds \$10 million.

(ii) A joint venture of at least one 8(a) Participant and one or more other business concerns may submit an offer for a competitive 8(a) procurement without regard to affiliation under paragraph (h) of this section so long as the requirements of §124.513(b)(1) of this chapter are met.

(iii) Two firms approved by SBA to be a mentor and protégé under 13 CFR 124.520 may joint venture as a small business for any Federal Government procurement, provided the protégé qualifies as small for the size standard corresponding to the NAICS code assigned to the procurement and, for purposes of 8(a) sole source requirements, has not reached the dollar limit set forth in 13 CFR 124.519.

(4) A contractor and its ostensible subcontractor are treated as joint venturers, and therefore affiliates, for size determination purposes. An ostensible subcontractor is a subcontractor that performs primary and vital requirements of a contract, or of an order under a multiple award schedule contract, or a subcontractor upon which the prime contractor is unusually reliant. All aspects of the relationship between the prime and subcontractor are considered, including, but not limited to, the terms of the proposal (such as contract management, technical responsibilities, and the percentage of subcontracted work), agreements between the prime and subcontractor (such as bonding assistance or the teaming agreement), and whether the subcontractor is the incumbent contractor and is ineligible to submit a proposal because it exceeds the applicable size standard for that solicitation.

(5) For size purposes, a concern must include in its receipts its proportionate share of joint venture receipts, and in its total number of employees its proportionate share of joint venture employees.

(i) *Affiliation based on franchise and license agreements.* The restraints imposed on a franchisee or licensee by its franchise or license agreement relating to standardized quality, advertising, accounting format and other similar provisions, generally will not be considered in determining whether the franchisor or licensor is affiliated with the franchisee or licensee provided the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Affiliation may arise, however, through other means, such as common ownership, common management or excessive restrictions upon the sale of the franchise interest.